



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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June 19, 2014

Saul Radman
c/o Lisa Mardis
160 Fayette Street, Suite 101
Morgantown, WV 26505

**RE: V14-08 through V14-11 / Saul Radman / 419 High Street
Tax Map 26, Parcel 80**

Dear Ms. Mardis:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the proposed development at 419 High Street. The decisions are as follows:

Board of Zoning Appeals, June 18, 2014:

V14-08 – Variance petition as it relates to rear setbacks

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved petition V14-08 granting a twelve (12) foot variance from the minimum rear setback standards so that the proposed building may be constructed to the rear property boundary as requested without conditions.

V14-09 – Variance petition as it relates to maximum lot coverage.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved petition V14-09 granting a ten percent (10%) variance from the maximum lot coverage standard as requested without conditions.

V14-10 – Variance petition as it relates to canyon effects

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board determined that, based on the Wind Flow Analysis and Sunlight Distribution Report, no additional or further design elements were required to preserve adequate light and airflow to public spaces (i.e. streets and sidewalks) around the subject site.

V14-11 – Variance petition as it relates to bicycle storage

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved petition V14-11 granting relief from requisite bicycle storage provisions with the condition that permanently affixed bicycle storage amenities must be development within each of the dwelling units.

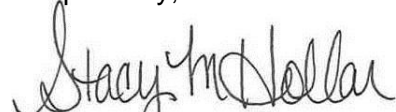
These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

A handwritten signature in black ink, appearing to read "Stacy Hollar", written in a cursive style.

Stacy Hollar
Executive Secretary
shollar@cityofmorgantown.org

ADDENDUM A

Approved Findings of Fact

V14-08 – Minimum Rear Setback

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

It appears that all three (3) of the existing buildings that front High Street and share their rear property boundaries with the Morgantown Parking Authority's Lot B (Fayette and Chestnut) have no rear setbacks and cover 100% of their respective parcels. With the exception of solid waste management, this development pattern does not appear to have manifested harm to public interests, the public realm, or the rights of adjoining property owners. The proposed development will significantly improve solid waste management for the subject site by locating garbage storage facilities within the structure; an attribute that is uncommon within the immediate area and across the B-4 District. The requested variance will not restrict emergency access to and from the proposed building or adjacent properties.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The former Daniel's Mens Clothing Store building, which will be razed and removed by the proposed development, currently has no rear setback and covers 100% of the subject property. The development pattern of no rear setback and 100% lot coverage appears to be a prevailing attribute of the subject and adjoining properties.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Observing the rear setback and lot coverage requirements would create a twelve-foot area adjoining the publicly-owned parking lot that would most likely be used unintentionally by the public and become an area attractive to loitering, trespass, litter, etc. Because paving the area will be necessary to access the internal garbage storage area and secondary access to the building, function and contributing green space development could not be accomplished.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Vacancy rates for commercial retail and service leasable space in the 400 Block of High Street appear to have been very low for many years. Observing the rear setback and lot coverage requirements will reduce the amount of commercial retail and service leasable space that could otherwise be delivered by the proposed development; particularly given the very limited opportunity of constructing new commercial space along High Street. The proposed development appears to be consistent with the land management concepts, principals, patterns, character, objectives and strategies enumerated in the 2013 Comprehensive Plan Update and the vision, development theme, and strategies within the "Downtown Core" area enumerated in the 2010 Downtown Strategic Plan Update.

V14-09 – Maximum Lot Coverage

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

It appears that all three (3) of the existing buildings that front High Street and share their rear property boundaries with the Morgantown Parking Authority's Lot B (Fayette and Chestnut) have no rear setbacks and cover 100% of their respective parcels. With the exception of solid waste management, this development pattern does not appear to have manifested harm to public interests, the public realm, or the rights of adjoining property owners. The proposed development will significantly improve solid waste management for the subject site by locating garbage storage facilities within the structure; an attribute that is uncommon within the immediate area and across the B-4 District. The requested variance will not restrict emergency access to and from the proposed building or adjacent properties.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The former Daniel's Mens Clothing Store building, which will be razed and removed by the proposed development, currently has no rear setback and covers 100% of the subject property. The development pattern of no rear setback and 100% lot coverage appears to be a prevailing attribute of the subject and adjoining properties.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Observing the rear setback and lot coverage requirements would create a twelve-foot area adjoining the publicly-owned parking lot that would most likely be used unintentionally by the public and become an area attractive to loitering, trespass, litter, etc. Because paving the area will be necessary to access the internal garbage storage area and secondary access to the building, function and contributing green space development could not be accomplished.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Vacancy rates for commercial retail and service leasable space in the 400 Block of High Street appear to have been very low for many years. Observing the rear setback and lot coverage requirements will reduce the amount of commercial retail and service leasable space that could otherwise be delivered by the proposed development; particularly given the very limited opportunity of constructing new commercial space along High Street. The proposed development appears to be consistent with the land management concepts, principals, patterns, character, objectives and strategies enumerated in the 2013 Comprehensive Plan Update and the vision, development theme, and strategies within the "Downtown Core" area enumerated in the 2010 Downtown Strategic Plan Update.

V14-11 – Parking and Loading Standards

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

An alternate means of delivering requisite bicycle storage can be accomplished by the Board's condition requiring permanently affixed bicycle storage amenities within each of the proposed dwelling units.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

An alternate means of delivering requisite bicycle storage can be accomplished by the petitioner's willingness to fulfill the Board's condition requiring permanently affixed bicycle storage amenities within each of the proposed dwelling units.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Vacancy rates for commercial retail and service leasable space in the 400 Block of High Street appear to have been very low for many years. Observing the bicycle storage facility standard will reduce the amount of commercial retail and service leasable space that could otherwise be delivered by the proposed development; particularly given the very limited opportunity of constructing new commercial space along High Street.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The spirit and intent of the zoning ordinance to increase the supply of residential bicycle storage thereby growing necessary infrastructure required to promote alternate modes of transport will be accomplished by the Board's condition requiring permanently affixed bicycle storage amenities within each of the proposed dwelling units.